

Court of Appeals, State of Michigan

ORDER

James Armaly v Robert R Johnson II MD

Docket No. 281241

LC No. 05-508444-NH

Helene N. White
Presiding Judge

Christopher M. Murray

Karen M. Fort Hood
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the September 25, 2007, order of the Wayne County Circuit Court, which denied the motion to set aside the default entered against defendant Jaliya Lokuketagod, M.D., is REVERSED. The motion for alternative service did not state "defendant's address or last known address, or that no address of the defendant is known," did not establish that plaintiff could have served defendant by other means provided in the court rules (i.e., service at his residence or last known address) and did not provide information that would lead a reasonable person to conclude that defendant remained in Wayne County or in the state of Michigan. See MCR 2.105(I)(2); *Krueger v Williams*, 410 Mich 144, 156-157; 300 NW2d 910 (1981); *Prosoli v Mullins*, 111 Mich App 8; 314 NW2d 508 (1981). Although the motion set forth the process server's efforts to locate and/or to contact defendant at various local hospitals and through Wayne State University, the fact that a website for the state of Michigan indicated that defendant's license had lapsed should have prompted a further inquiry as to whether defendant was residing in the state of Michigan. As demonstrated by defendant, a simple Internet search would have revealed that defendant was residing and working in Sri Lanka. Accordingly, the trial court erred in permitting plaintiffs to make substitute service by posting on the courthouse and by publication in the Detroit Legal News. Because the trial court did not obtain jurisdiction over defendant, the default against him must be set aside in accordance with MCR 2.603(D)(1). See *CR Mechanical v Temp-San Corp*, 394 Mich 102; 228 NW2d 784 (1975).

This order is to have immediate effect, MCR 7.215(F)(2). The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 15 2008

Date

Sandra Schultz Mengel
Chief Clerk